IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITON NO.7251 OF 2005

M/s.Rajguru Impex India Pvt. Ltd. ..Petitioner.

V/s.

Union of India & Anr. ..Respondents.

Mr.S.N.Kantawala i/b. Yogesh Rohira for petitioner.

Mr.A.S.Rao for respondents.

CORAM : H.L.GOKHALE AND
J.P.DEVADHAR, JJ.

DATED : 14TH DECEMBER, 2005.

P.C. :-

1. Heard Mr.Kantawala in support of this petition. Mr.Rao appears for the respondents. Rule, returnable forthwith.

2. Petition seeks to challenge the order passed by the Settlement Commission dated 27th September, 2005 dismissing the application for settlement. The application came to be dismissed on the second date of hearing when nobody was present for the petitioner. Mr.Kantawala has tried to draw our attention to the letter dated 5th September, 2005 sent by the petitioner's counsel to the Settlement Commission seeking adjournment on 6th September, 2005. In the petition, it is mentioned that the letter was sent by Fax but the letter does not contain any Fax number of

the concerned counsel. We are not impressed by this ground.

3. Mr.Kantawala makes a request that an opportunity be given to the petitioners for settlement. Considering the facts that the petitioners are keen on settlement and it was the second date of hearing, we interfere with this order passed by the Settlement Commission and restore the proceedings to the file of the Settlement Commissioner.

4. We are essentially restoring the proceedings only with a view to given an opportunity to the petitioners and we make it clear as such that we do not find any fault with the order of the Settlement Commission.

5. Petition is allowed. Rule is made absolute in the above terms and the impugned order is set aside the matter stands restored to the file of the Settlement Commission on payment of costs of Rs.30,000/- to the respondents, which will be paid within 3 weeks.

6. Matter will be listed on the file of Settlement Commission after the payment of costs i.e. after 4 weeks.

(H.L.GOKHALE, J.)

(J.P.DEVADHAR, J.)